

**National Emergency Management Association Legislative Report on  
Post-Katrina Emergency Management Reform Act of 2006-10-03  
Title VIII—National Emergency Management  
Attached to the Department of Homeland Security FY 2007 Appropriations Bill  
H.R. 5441**

*Reorganization Sections Effective March 31, 2007 and Other Sections Effective Upon  
Enactment unless otherwise noted*

**Subtitle A—Federal Emergency Management Agency**

Reorganization

- This subtitle amends Homeland Security Act by striking Title V—Emergency Preparedness and Response and replacing it with a revised Title V—National Emergency Management. Among other things, the new Title V:
- Elevates the standing of the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security by promoting the Administrator of FEMA to the level of Deputy Secretary and requires that the Administrator possess a demonstrated ability in and knowledge of emergency management and homeland security and at least five years of executive leadership and management experience. The Administrator shall report to the Secretary without being required to report through any other official of the Department;
- Directs the Administrator to serve as the principal advisor to the President, the Homeland Security Council, and the Secretary of Homeland Security for all matters relating to emergency management and permits the President to designate the Administrator as a member of the Cabinet in the event of natural disasters, acts of terrorism, and other man-made disasters. Allows the Administrator to make recommendations to Congress relating to emergency management after informing the Secretary. Allows the administrator to appoint (and Senate to confirm) no more than 4 Deputy Administrators to assist the Administrator. The US Fire Administration Administrator shall have the rank of an Under Secretary and there is created an Assistant Secretary for Cybersecurity and Communications. Also, the legislation authorizes a the position of the Chief Medical Officer to serve as the principal advisor to the Secretary and the Administrator on medical and public health issues;
- Establishes the primary mission for the agency to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation;
- Restores the nexus between emergency preparedness and response by transferring the personnel, assets, components, programs, grants, and liabilities of the Directorate of

Preparedness as of June 1, 2006 to FEMA, except for the Office of Infrastructure Protection, the National Communications System, the National Cybersecurity Division, and the Office of the Chief Medical Officer. The Port Security Bill specifies that the Chemical Stockpile Emergency Preparedness Program and the Radiological Emergency Management Preparedness Program are specifically transferred back to FEMA;

- The bill maintains that the Administrator shall coordinate the implementation of a strategy that builds common capabilities in an all-hazards approach to prepare for, protect against, respond to, recover from, or mitigate against all disasters.

#### Firewall

- Provides statutory protections to FEMA, like those provided to the U.S. Coast Guard and the Secret Service under the Homeland Security Act, by: (1) maintaining FEMA as a distinct entity within the Department; (2) preventing the transfer of FEMA authorities, functions, personnel, assets, missions and funds; and (3) limiting the reprogramming and transfer of FEMA's funds;

#### Regional Offices

- Establishes robust Regional Offices, Regional Advisory Councils, and multi-agency Regional Strike Teams to ensure effective coordination and integration of regional preparedness, protection, response, mitigation, and recovery activities with State, local, and tribal governments, emergency response providers, emergency managers, and other stakeholders. Regional Directors are required to have emergency management and homeland security experience. Area offices are authorized for the Pacific, Caribbean and Alaska, as components of the appropriate regional offices. Regional Advisory Councils shall be made up of state, local, tribal government located within the geographic area;

#### National Advisory Council

- Creates a National Advisory Council to advise the Administrator on aspects of emergency management and to take input from state, local, tribal and private sector representatives, representing a cross section of geographic areas. The Council will be responsible for input on the development of the national preparedness goal, the national preparedness system, NIMS, NRP, and other related plans and strategies. Emergency management representatives must be included in the Council, among other disciplines and the Council must coordinate with the Departments of Health and Human Service and Transportation;

#### National Integration Center

- Authorizes the creation of a National Integration Center to ensure ongoing management of NIMS, NRP and any successor to such system or plan;

#### Credentialing and Resource Typing

- Authorizes the Administrator to enter into a MOU with the administrators of EMAC (NEMA), state, local and tribal governments and emergency response providers to

collaborate on developing standards for deployment capabilities including credentialing or personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism and other man-made disasters;

#### National Infrastructure Simulation and Analysis Center

- Authorizes a National Infrastructure Simulation and Analysis Center to serve as a national expert for critical infrastructure modeling and continuity of operations/government. Each federal agency is responsible for establishing a formal relationship for information sharing with the Center;

#### Evacuation Plans and Exercises Eligible for Homeland Security Grants

- Allows for SHSGP and UASI grants to be used for the establishment of programs and preparation for the development and maintenance of mass evacuation plans for natural disasters, acts of terrorism, and other man-made disasters. The change allows for the purchase and stockpiling of necessary supplies and shelters. The language establishes the grants as multi-purpose, however the basis for awarding the grants remains to be terrorism based;

#### Disability Coordinator

- Establishes a position of Disability Coordinator to report directly to the Administrator to provide guidance and coordination on matters related to individuals with disabilities;

#### National Operations Center

- Establishes a National Operations Center as the principal center for the Department to provide situational awareness and a common operating picture for the entire Federal government, state and local and tribal governments as appropriate in the event of any disaster. The Center also is charged with ensuring that critical terrorism and disaster related information reaches government decision makers;

#### Principal Federal Official Role Clarified

- Clarifies the chain of command during the Federal response to natural disasters, acts of terrorism, and other man-made disasters by prohibiting the Principal Federal Official (PFO) from directing or replacing the incident command structure at an incident and by limiting the PFO's authority over Federal and State officials, including the Federal Coordinating Officer. The bill defines the Federal Coordinating Officer as that in Section 302 of the Stafford Act; and

#### Federal Catastrophic Emergency Plan

- Directs the Department to release its Federal catastrophic emergency plan and provides guidelines and funding for State, local, and tribal governments to develop catastrophic mass evacuations plans.

### **Subtitle B—Personnel Reforms and Emergency Management Capabilities**

Chapter 1 provides the Administrator a number of tools for rebuilding FEMA's professional and reserve workforces. These include a strategic human capital plan, recruitment and retention bonuses, and professional development and education;

Chapter 2 develops specific federal, state, and local capabilities necessary for managing disasters of all types. These include catastrophic disaster plans, incident management response teams, modern logistics and disaster assistance management systems, and Gulf Coast recovery office reforms. FEMA is authorized to disclose evacuee information to law enforcement agencies to track sex offenders;

#### Homeland Security Education Program

- Established a graduate level Homeland Security Education Plan in the National Capital Region to provide educational opportunities to senior federal officials and select state and local officials with homeland security and emergency management responsibilities in consultation with existing assets such as the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute;

#### Surge Capacity Force

- Requires a plan to establish and implement a Surge Capacity Force for deployment of individuals to respond to natural disasters, acts of terrorism, and other man-made disasters including catastrophic events;

#### Catastrophic Incident Annex

- Requires states to submit a catastrophic incident annex in addition to other plans required by the Stafford Act;

#### Evacuation Preparedness Technical Assistance

- FEMA in coordination with other federal agencies shall provide evacuation preparedness technical assistance to State, local and tribal governments to include preparation of hurricane evacuation studies, technical assistance in developing evacuation plans, assessing storm surge estimate, evacuation zones, evacuation clearance times, transportation capacity, and shelter capacity;

#### Emergency Response Teams

- The President shall at a minimum establish 3 national response teams, sufficient regional response teams including the Regional Office Strike Teams, and other response teams as may be necessary to meet the incident management responsibilities of the Federal government. The Administrator is responsible for establishing specific target capability levels for the teams. Each response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident;

#### Logistics

- The Administrator shall develop an efficient, transparent, and flexible logistics system for procurement and delivery of goods and services necessary for an

efficient and timely response to natural disasters, acts of terrorism, and other man-made disasters and for real-time visibility of items at each point throughout the logistics system;

#### Prepositioned Equipment Program

- The Administrator is required to establish a prepositioned equipment program to preposition standardized equipment in at least 11 locations to sustain and replenish critical assets used by state, local, and tribal governments in response to natural disasters, acts of terrorism, and other man-made disasters. The Administrator must notify state, local, and tribal governments no later than 60 days prior to a location being closed on the program;

#### Hurricane Katrina and Hurricane Rita Recovery Offices

- The bill provides for the establishment of recovery offices in Mississippi, Louisiana, Alabama, and Texas;

#### Basic Life Supporting First Aid and Education

- The Administrator is required to enter into agreements with organization to provide funds to emergency response providers to provide education and training in life supporting first aid to children;

#### Improvements to Information Technology Systems

- The Administrator is responsible for updating and improving technology systems of the Agency including compatibility of existing systems, deployment of technology enhancements to the HQ and regional offices, tracking disaster response personnel, missions assignments, supplies and other disaster critical functions; and

#### Disclosure of Information to Law Enforcement Agencies

- The Administrator is permitted to share information with law enforcement agencies related to individual assistance to identify illegal conduct, preserve public safety, and to assist with compliance of sex offender notification laws.

### **Subtitle C—Comprehensive Preparedness**

Subtitle C establishes an all hazard national preparedness goal and system for bringing direction, professional expertise, and accountability to federal, state, and local preparedness activities. Responsibility for managing disasters is vested jointly between the federal and state governments. This subtitle codifies major elements of Homeland Security Presidential Directive 8 on national preparedness. Components of the national preparedness system include:

- A national advisory council of state and local professionals;
- National planning scenarios;
- Target capabilities or recommended preparedness levels;
- Training and exercises;
- A comprehensive assessment system and remedial action program; and
- Federal preparedness requirements.

The National Advisory Council will be responsible for updating the National Response Plan, the Target Capabilities List, National Planning Scenarios, equipment and training standards, development of training and exercises, a remedial action plan and the National Preparedness Goal. The Administrator will be responsible for an inventory of Federal response capabilities with specific performance parameters, timeframes for capabilities arrival at an incident, readiness of the capability to respond to all-hazards, and emergency communications assets maintained by the Federal government and state, local, tribal governments and the private sector as appropriate. The capabilities will include Department of Defense role in supporting civil authorities and an inventory database.

The bill also requires an annual report on Federal Preparedness to the Congress, including a catastrophic resource report, state preparedness report, and federal preparedness report.

#### Noble Training Center

Transfers Noble Training Center to the Center for Domestic Preparedness.

#### National Exercise and Simulation Center

Requires the President to establish a national exercise and training center utilizing a variety of media for preparing elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively. The Center will take into account command and control functions at the operational level.

### **Subtitle D—Emergency Communications**

- This subtitle amends the Homeland Security Act by adding a new Title XVIII—Emergency Communications. Among other things, the new Title XVIII:
- Elevates the importance of emergency communications within the Department by establishing an Office of Emergency Communications and a Director for Emergency Communications, who – along with the Directors of the National Communications System and the National Cyber Security Division – will report to the Assistant Secretary for Cybersecurity and Communications;
- Consolidates the Department’s non-science and technology aspects of emergency communications, including the SAFECOM Program, the Integrated Wireless Network, and the Interoperable Communications Technical Assistance Program, and clarifies that the Science and Technology Directorate should focus its responsibilities on standards and the research, development, testing, and evaluation of emergency communications technologies;
- Requires a National Emergency Communications Plan that sets goals and timeframes for:
  - (1) supporting and promoting the ability of emergency response providers and relevant government officials to continue to communicate in the event of a

catastrophic loss of local and regional emergency communications services; and (2) ensuring, accelerating, and attaining interoperable emergency communications;

- Requires the Director to conduct a nationwide baseline assessment of emergency communications needs and to submit periodic assessments to Congress on the Department's progress in achieving the goals of, and carrying out its new responsibilities, under Title XVIII;
- Makes the use by State, local, and tribal governments of homeland security assistance administered by the Department for emergency communications contingent on Department-certified Statewide Interoperable Communication Plans and the development and promulgation of national voluntary consensus standards for emergency communications capabilities;
- Establishes Regional Emergency Communications Coordination Working Groups in each FEMA region to ensure effective coordination and integration of regional emergency communications capabilities; and
- Establishes an Emergency Communications Preparedness Center to serve as the focal point for Federal interagency efforts and to coordinate the development of the Federal aspects of the National Communications Plan.

### **Subtitle E—Stafford Act Amendments**

Subtitle E improves existing disaster relief authorities by providing the President additional program flexibility, financial incentives to control costs, and by addressing unique aspects of catastrophic disasters. The subtitle maintains the primacy of state governments and the supporting role of federal assistance under the Stafford Act. The changes:

- Allow for accelerated federal assistance and federal support to save lives, prevent human suffering, mitigating severe damage in the absence of a specific request for assistance;
- Require national disaster recovery and housing strategies to clearly define the roles and responsibilities of federal agencies and other organizations during large scale disasters;
- Provide the President additional flexibilities under the individual assistance program to limit the excessive use of trailers in future disasters. Allows the use of semi-permanent housing in remote areas;
- Increase flexibility and imposes a total assistance cap on mitigation programs. The change institutes a sliding scale program for the post-disaster Hazard Mitigation Grant Program allowing 15 percent for disaster amounts no greater than \$2 billion, 10 percent for disaster amounts between \$2 - \$10 billion, and 7.5 percent for disaster amounts between \$10 - \$35 billion. Removes the caps on repair or replacement assistance or individual assistance. Allows for utility payment, security deposits, and hook-up charges to be included in individual assistance;

- Allow the President to appoint a multi-state Federal Coordinating Officer;
- Requires the development of capabilities necessary to meet the needs of individuals with disabilities;
- Requires FEMA to develop a voluntary family registry and locator system and to coordinate with the National Center for Missing and Exploited Children in the Center's development of a National Emergency Child Locator Center;
- Requires FEMA in coordination with state and local governments to take into account populations with limited English proficiency, special needs populations, and individuals with disabilities in sharing best practices and maintaining and informational clearinghouse;
- Authorizes the President to provide transportation assistance to return evacuees to their residences;
- Allows the President to provide case management services to victims of major disasters to identify and address unmet needs;
- Allows the President to designate a Small State and Rural Advocate;
- Allows for the repair, restoration and replacement of damaged private non-profit educational facilities;
- Creates a housing pilot program to reduce the need for large scale trailer parks; and
- Creates a public assistance pilot program to create financial incentives to reduce total costs, prevent fraud, and expedite completion of two of the most expensive aspects of federal disaster assistance: debris removal and the reconstruction of public facilities.

### **Subtitle F—Prevention of Fraud, Waste, and Abuse**

Subtitle F seeks to reduce disaster expenditures by utilizing competitive pre-disaster contracts as much as possible, limiting the use of sole source or non-competitive contracts in the immediate aftermath of a disaster, and limiting the number of subcontractor levels in disaster contracts.

Subtitle F provides greater accountability against fraud and abuse by developing internal management controls, fraud prevention training, and allowing the inspectors general of other federal agencies to use a portion of their disaster relief funds for oversight activities.

### **Authorizations**

The legislation increases authorization levels for a select few programs and FEMA's core operating budget.

- Urban Search and Rescue increases by \$20 million for FY08.
- Metropolitan Medical Response increases by \$30 million for FY08.
- Emergency Management Performance Grant increases by \$175 million for FY08.
- Emergency Management Assistance Compact authorized at \$4 million for FY08.
- FEMA's two operating accounts increase by 10% per year for 3 years.



## **PORT SECURITY CONFERENCE REPORT PROVISIONS**

### **H.R. 4954, Conference Report 109-711**

#### **WARN Bill–Warning, Alert, and Response Network**

**Commercial Mobile Service Alerts**–The bill spells out FCC duties in preparing Commercial Mobile Services Alert regulations and technical standards. The bill creates a Commercial Mobile Services Alert Advisory Committee with state and local government representatives, tribal governments, subject matter experts, and other qualified representatives, stakeholders or interested parties. The Advisory Committee would be responsible for the development of system-critical recommendations. The bill also calls for the development of a research, development, testing, and evaluation program. The bill also includes a grant program for remote community alert systems for outdoor alert technology within 180 days after enactment of the act. The grant program is funded at no more than \$10 million annually. The entire bill authorizes \$106 million in funding for these programs.

#### **STAFFORD ACT CHANGES**

The bill includes several changes to the Stafford Act including:

- A change of definition for essential service providers to allow for private for profit entities inclusion. Additionally language takes that to the greatest extent practicable, the federal government shall not delay or impede access to a disaster site to an essential services provider whose access is necessary to restore and repair and essential service.
- A change to the Community Disaster Loans to allow for greater assistance if at least 75 percent is lost of the annual operating percent for the fiscal year budget for local governments during a major disaster to a maximum loan of \$5 million. Allows for more than 25 percent of the annual operating budget to be loaned up to 50 percent of annual operating budget.
- A change the public facilities section to allow 90 percent federal share.
- A new requirement section to provide for expedited payments during a disaster in which no less than 50 percent of the President’s initial estimate of assistance shall be made available within 60-90 dates after application.
- A requirement for the development of requirements to facilitate the use of local contracts.
- A clarification that the Radiological Emergency Preparedness Program and the Chemical Stockpile Emergency Preparedness Program shall be under the responsibility of the FEMA Administrator.

#### **DISCLOSURES FOR HOMELAND SECURITY GRANTS**

The bill includes a section that requires state and local governments to disclose the uses of the State Homeland Security Grant Program, Urban Area Security Initiative, the Law Enforcement Terrorism Prevention Program, Citizen Corps, and the Metropolitan Medical Response System to DHS no later than 12 months after receipt of the grant.

**PROTECTION OF HEALTH AND SAFETY DURING DISASTER**

The bill includes the NEMA supported legislation to create a certified first responder monitoring health program in association with the creation of an adequate baseline medical screening. The program applies to workers or volunteers responding to a disaster natural or man-made or involving any transportation mode and persons whose residence or place of employment includes the disaster area. The bill allows for the development of registries and studies to voluntarily track the impact of disasters on health. The bill also calls for a report by the National Academy of Sciences on disaster area health officials and environmental protection and monitoring including various key officials addressing environmental health and safety and emergency response.